

Before the
Federal Communications Commission
Washington, DC

In the Matter of:

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Schools and Libraries Support Mechanism) Docket Number 02-6
Reply Comments on the Eligible Services)
List)

Reply Comments of Greg Weisiger

It is my pleasure to offer reply comments to the Commission regarding the Schools and Libraries Division Proposed Eligible Services List for E-Rate funding Year 2007. Initial comments of stakeholders and service providers provided valuable insight to the Commission for improvements with the proposed list.

I agree completely with Sprint Nextel comments regarding use of portable “Data transmission service from school buses” and “Internet access from portable devices” as well as comments by others on the subject. Commentors suggest the Commission better define language in the Second Order on what is “integral, immediate, and proximate to the education of students...” Indeed, in my testimony before the Commission in May 2002, I stated that I looked forward to working with the SLD on the interpretation of this language.

Unfortunately, the SLD has limited the eligibility of wireless devices to the specific examples listed in the Second Order: Use by a school bus driver while delivering children, use by a library staff person in a library mobile unit van, and use by teachers or other school staff while accompanying students on a field trip or sporting event. The same section of the ESL notes that such devices are limited to telecommunications services and Internet access and email are ineligible from the devices. Commentors note that the realities of technology make this test impractical.

The current practice and understanding by applicants since the Second Order is that cellular telephone service is eligible for virtually all school and library personnel. Cellular telephones are generally used off school or library

grounds for obvious reasons. Advances in cellular technology allow the majority of cellular telephones to send email, text messages and access the Internet. The ESL must be flexible and take into consideration technological evolution. Some commentators note that the job function of many personnel not specifically cited in the ESL examples are integral, immediate, and proximate to the effective operation of a school or library.

If taken to an absurd example, and remaining true to the Proposed ESL, a school administrator could be issued a cellular telephone. To be 100 percent eligible for E-Rate funding, the administrator is given a handbook for use of the telephone. First, email, text messaging and Internet access may not be used on the phone. In general, the cellular phone must be used on school grounds. If the administrator is off-site and needs to use the phone for school business, the administrator must find an eligible school or library from which to make the call. If an eligible school cannot be located, a school sporting event or field trip would suffice. Finally, the administrator could locate a library bookmobile and make a call from inside the bookmobile.

Continuing with the example, if the administrator was in a personal automobile driving around the county on a snowy December morning to determine if schools should be closed and a call was made from the phone to close schools, it would be an E-Rate ineligible call. However, if the administrator was driving in a school vehicle, a case could be made that the call originated from school property and was thus eligible.

Wireless devices used by all school or library personnel responsible for the effective and efficient operation of schools or libraries should be considered integral, immediate and proximate to the education of students or service to library patrons. These would include cellular telephones, Blackberry and Trio type devices. Section (h) of the Telecommunications Act clearly supports this notion.

Cost Effective Services

I also agree with commentators that the Proposed ESL should provide more clarification and examples of “cost effectiveness” for services or products. The Commission has not provided the SLD with any guidance in this area. The Commission, with modifications to the proposed ESL, now has the opportunity to give bright-line notice to applicants and service providers on what the Commission considers “Economically Reasonable” costs for services or products. Again, the Telecommunication Act specifically tasks the Commission with ensuring Advanced Services are “Economically Reasonable.”

Under the current situation, a wave of appeals will work their way through the system for funding denials cited by commentors and the Commission will eventually be forced to determine on an individual basis whether or not funding requests denied by the SLD were indeed economically reasonable.

Definition of "Basic Conduit Access" to the Internet

I agree with commentors that the Commission should provide clarification on what it considers "Basic Conduit Access" to the Internet, which can be provided by non-common carrier service providers. Commentors provided several examples such as streaming video or distance learning. Under No Child Left Behind legislation, testing at every grade level is required. A growing number of states have initiated online testing programs and electronic student management systems. When test information and student data are transmitted using Internet protocol over a Wide Area Network provided by a non-common carrier, such transmissions should be E-Rate eligible as they are certainly integral, immediate, and proximate to the education of students and continued accreditation of schools.

I look forward to a timely issuance of the ESL for funding Year 2007 incorporating the excellent suggestions submitted by commentors.

Respectfully submitted this 13th day of August, 2006,

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I certify a true and correct copy of these comments have been or will be delivered via electronic mail to the following:

Sprint Nextel
Embarq Corporation
E-Rate Service Provider Forum
State E-Rate Coordinators Alliance